

Subpart C—Reports Required To Be Made

§ 1010.300 General.

Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to its chapter X part for any additional reporting requirements. Unless otherwise indicated, the reporting requirements contained in this subpart C apply to all financial institutions.

§ 1010.301 Determination by the Secretary.

The Secretary hereby determines that the reports required by this chapter have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 1010.305 [Reserved]

§ 1010.306 Filing of reports.

(a)(1) A report required by § 1010.311 or § 1021.311, shall be filed by the financial institution within 15 days following the day on which the reportable transaction occurred.

(2) A copy of each report filed pursuant to §§ 1010.311, 1010.313, 1020.315, 1021.311 and 1021.313, shall be retained by the financial institution for a period of five years from the date of the report.

(3) All reports required to be filed by §§ 1010.311, 1010.313, 1020.315, 1021.311 and 1021.313, shall be filed with the Commissioner of Internal Revenue, unless otherwise specified.

(b)(1) A report required by § 1010.340(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise specified by the Commissioner of Customs and Border Protection.

(2) A report required by § 1010.340(b) shall be filed within 15 days after receipt of the currency or other monetary instruments.

(3) All reports required by § 1010.340 shall be filed with the Customs officer in charge at any port of entry or departure, or as otherwise specified by the Commissioner of Customs and Border Protection. Reports required by § 1010.340(a) for currency or other monetary instruments not physically accompanying a person entering or de-

parting from the United States, may be filed by mail on or before the date of entry, departure, mailing or shipping. All reports required by § 1010.340(b) may also be filed by mail. Reports filed by mail shall be addressed to the Commissioner of Customs and Border Protection, Attention: Currency Transportation Reports, Washington, DC 20229.

(c) Reports required to be filed by § 1010.350 shall be filed with the Commissioner of Internal Revenue on or before June 30 of each calendar year with respect to foreign financial accounts exceeding \$10,000 maintained during the previous calendar year.

(d) Reports required by § 1010.311, § 1010.313, § 1010.340, § 1010.350, § 1020.315, § 1021.311 or § 1021.313 of this chapter shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.

(e) Forms to be used in making the reports required by § 1010.311, § 1010.313, § 1010.350, § 1020.315, § 1021.311 or § 1021.313 of this chapter may be obtained from the Internal Revenue Service. Forms to be used in making the reports required by § 1010.340 may be obtained from the U.S. Customs and Border Protection.

§ 1010.310 Reports of transactions in currency.

Sections 1010.310 through 1010.314 set forth the rules for the reporting by financial institutions of transactions in currency. Unless otherwise indicated, the transactions in currency reporting requirements in §§ 1010.310 through 1010.314 apply to all financial institutions. Each financial institution should refer to subpart C of its chapter X part for any additional transactions in currency reporting requirements.

§ 1010.311 Filing obligations for reports of transactions in currency.

Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000, except as otherwise provided in this section. In the case of the U.S. Postal Service,

the obligation contained in the preceding sentence shall not apply to payments or transfers made solely in connection with the purchase of postage or philatelic products.

§ 1010.312 Identification required.

Before concluding any transaction with respect to which a report is required under § 1010.311, § 1010.313, § 1020.315, § 1021.311 or § 1021.313 of this chapter, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity on whose behalf such transaction is to be effected. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (*e.g.*, a Provincial driver's license with indication of home address). Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (*e.g.*, a driver's license or credit card). A bank signature card may be relied upon only if it was issued after documents establishing the identity of the individual were examined and notation of the specific information was made on the signature card. In each instance, the specific identifying information (*i.e.*, the account number of the credit card, the driver's license number, *etc.*) used in verifying the identity of the customer shall be recorded on the report, and the mere notation of "known customer" or "bank signature card on file" on the report is prohibited.

§ 1010.313 Aggregation.

(a) *Multiple branches.* A financial institution includes all of its domestic branch offices, and any recordkeeping facility, wherever located, that contains records relating to the transactions of the institution's domestic offices, for purposes of the transactions

in currency reporting requirements in this chapter.

(b) *Multiple transactions.* In the case of financial institutions other than casinos, for purposes of the transactions in currency reporting requirements in this chapter, multiple currency transactions shall be treated as a single transaction if the financial institution has knowledge that they are by or on behalf of any person and result in either cash in or cash out totaling more than \$10,000 during any one business day (or in the case of the U.S. Postal Service, any one day). Deposits made at night or over a weekend or holiday shall be treated as if received on the next business day following the deposit.

§ 1010.314 Structured transactions.

No person shall for the purpose of evading the transactions in currency reporting requirements of this chapter with respect to such transaction:

(a) Cause or attempt to cause a domestic financial institution to fail to file a report required under the transactions in currency reporting requirements of this chapter;

(b) Cause or attempt to cause a domestic financial institution to file a report required under the transactions in currency reporting requirements of this chapter that contains a material omission or misstatement of fact; or

(c) Structure (as that term is defined in § 1010.100(xx)) or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.

§ 1010.315 Exemptions for non-bank financial institutions.

A non-bank financial institution is not required to file a report otherwise required by § 1010.311 with respect to a transaction in currency between the institution and a commercial bank.

§ 1010.320 Reports of suspicious transactions.

Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to subpart C of its financial institution part in this chapter for any additional suspicious transaction reporting requirements.

§ 1010.330 Reports relating to currency in excess of \$10,000 received in a trade or business.

(a) *Reporting requirement*—(1) *Reportable transactions*—(i) *In general.* Any person (solely for purposes of section 5331 of title 31, United States Code and this section, “person” shall have the same meaning as under 26 U.S.C.7701(a)(1)) who, in the course of a trade or business in which such person is engaged, receives currency in excess of \$10,000 in 1 transaction (or 2 or more related transactions) shall, except as otherwise provided, make a report of information with respect to the receipt of currency. This section does not apply to amounts received in a transaction reported under 31 U.S.C. 5313 and § 1010.311, § 1010.313, § 1020.315, § 1021.311 or § 1021.313 of this chapter.

(ii) *Certain financial transactions.* Section 6050I of title 26 of the United States Code requires persons to report information about financial transactions to the IRS, and 31 U.S.C. 5331 requires persons to report similar information about certain transactions to FinCEN. This information shall be reported on the same form as prescribed by the Secretary.

(2) *Currency received for the account of another.* Currency in excess of \$10,000 received by a person for the account of another must be reported under this section. Thus, for example, a person who collects delinquent accounts receivable for an automobile dealer must report with respect to the receipt of currency in excess of \$10,000 from the collection of a particular account even though the proceeds of the collection are credited to the account of the automobile dealer (*i.e.*, where the rights to the proceeds from the account are retained by the automobile dealer and the collection is made on a fee-for-service basis).

(3) *Currency received by agents*— (i) *General rule.* Except as provided in paragraph (a)(3)(ii) of this section, a person who in the course of a trade or business acts as an agent (or in some other similar capacity) and receives currency in excess of \$10,000 from a principal must report the receipt of currency under this section.

(ii) *Exception.* An agent who receives currency from a principal and uses all

of the currency within 15 days in a currency transaction (the “second currency transaction”) which is reportable under section 5312 of title 31, or 31 U.S.C. 5331 and this section, and who discloses the name, address, and TIN of the principal to the recipient in the second currency transaction need not report the initial receipt of currency under this section. An agent will be deemed to have met the disclosure requirements of this paragraph (a)(3)(ii) if the agent discloses only the name of the principal and the agent knows that the recipient has the principal’s address and taxpayer identification number.

(iii) *Example.* The following example illustrates the application of the rules in paragraphs (a)(3)(i) and (ii) of this section:

Example. B, the principal, gives D, an attorney, \$75,000 in currency to purchase real property on behalf of B. Within 15 days D purchases real property for currency from E, a real estate developer, and discloses to E, B’s name, address, and taxpayer identification number. Because the transaction qualifies for the exception provided in paragraph (a)(3)(ii) of this section, D need not report with respect to the initial receipt of currency under this section. The exception does not apply, however, if D pays E by means other than currency, or effects the purchase more than 15 days following receipt of the currency from B, or fails to disclose B’s name, address, and taxpayer identification number (assuming D does not know that E already has B’s address and taxpayer identification number), or purchases the property from a person whose sale of the property is not in the course of that person’s trade or business. In any such case, D is required to report the receipt of currency from B under this section.

(b) *Multiple payments.* The receipt of multiple currency deposits or currency installment payments (or other similar payments or prepayments) relating to a single transaction (or two or more related transactions), is reported as set forth in paragraphs (b)(1) through (b)(3) of this section.

(1) *Initial payment in excess of \$10,000.* If the initial payment exceeds \$10,000, the recipient must report the initial payment within 15 days of its receipt.

(2) *Initial payment of \$10,000 or less.* If the initial payment does not exceed \$10,000, the recipient must aggregate the initial payment and subsequent

payments made within one year of the initial payment until the aggregate amount exceeds \$10,000, and report with respect to the aggregate amount within 15 days after receiving the payment that causes the aggregate amount to exceed \$10,000.

(3) *Subsequent payments.* In addition to any other required report, a report must be made each time that previously unreportable payments made within a 12-month period with respect to a single transaction (or two or more related transactions), individually or in the aggregate, exceed \$10,000. The report must be made within 15 days after receiving the payment in excess of \$10,000 or the payment that causes the aggregate amount received in the 12-month period to exceed \$10,000. (If more than one report would otherwise be required for multiple currency payments within a 15-day period that relate to a single transaction (or two or more related transactions), the recipient may make a single combined report with respect to the payments. The combined report must be made no later than the date by which the first of the separate reports would otherwise be required to be made.)

(4) *Example.* The following example illustrates the application of the rules in paragraphs (b)(1) through (b)(3) of this section:

Example. On January 10, Year 1, M receives an initial payment in currency of \$11,000 with respect to a transaction. M receives subsequent payments in currency with respect to the same transaction of \$4,000 on February 15, Year 1, \$6,000 on March 20, Year 1, and \$12,000 on May 15, Year 1. M must make a report with respect to the payment received on January 10, Year 1, by January 25, Year 1. M must also make a report with respect to the payments totaling \$22,000 received from February 15, Year 1, through May 15, Year 1. This report must be made by May 30, Year 1, that is, within 15 days of the date that the subsequent payments, all of which were received within a 12-month period, exceeded \$10,000.

(c) *Meaning of terms.* The following definitions apply for purposes of this section—

(1) *Currency.* Solely for purposes of 31 U.S.C. 5331 and this section, *currency* means—

(i) The coin and currency of the United States or of any other country,

which circulate in and are customarily used and accepted as money in the country in which issued; and

(ii) A cashier's check (by whatever name called, including "treasurer's check" and "bank check"), bank draft, traveler's check, or money order having a face amount of not more than \$10,000—

(A) Received in a designated reporting transaction as defined in paragraph (c)(2) of this section (except as provided in paragraphs (c)(3), (4), and (5) of this section), or

(B) Received in any transaction in which the recipient knows that such instrument is being used in an attempt to avoid the reporting of the transaction under section 5331 and this section.

(2) *Designated reporting transaction.* A designated reporting transaction is a retail sale (or the receipt of funds by a broker or other intermediary in connection with a retail sale) of—

(i) A consumer durable,
(ii) A collectible, or
(iii) A travel or entertainment activity.

(3) *Exception for certain loans.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section if the instrument constitutes the proceeds of a loan from a bank. The recipient may rely on a copy of the loan document, a written statement from the bank, or similar documentation (such as a written lien instruction from the issuer of the instrument) to substantiate that the instrument constitutes loan proceeds.

(4) *Exception for certain installment sales.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section if the instrument is received in payment on a promissory note or an installment sales contract (including a lease that is considered to be a sale for Federal income tax purposes). However, the preceding sentence applies only if—

(i) Promissory notes or installment sales contracts with the same or substantially similar terms are used in the ordinary course of the recipient's trade or business in connection with sales to ultimate consumers; and

(ii) The total amount of payments with respect to the sale that are received on or before the 60th day after the date of the sale does not exceed 50 percent of the purchase price of the sale.

(5) *Exception for certain down payment plans.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section if the instrument is received pursuant to a payment plan requiring one or more down payments and the payment of the balance of the purchase price by a date no later than the date of the sale (in the case of an item of travel or entertainment, a date no later than the earliest date that any item of travel or entertainment pertaining to the same trip or event is furnished). However, the preceding sentence applies only if—

(i) The recipient uses payment plans with the same or substantially similar terms in the ordinary course of its trade or business in connection with sales to ultimate consumers; and

(ii) The instrument is received more than 60 days prior to the date of the sale (in the case of an item of travel or entertainment, the date on which the final payment is due).

(6) *Examples.* The following examples illustrate the definition of "currency" set forth in paragraphs (c)(1) through (c)(5) of this section:

Example 1. D, an individual, purchases gold coins from M, a coin dealer, for \$13,200. D tenders to M in payment United States currency in the amount of \$6,200 and a cashier's check in the face amount of \$7,000 which D had purchased. Because the sale is a designated reporting transaction, the cashier's check is treated as currency for purposes of 31 U.S.C. 5331 and this section. Therefore, because M has received more than \$10,000 in currency with respect to the transaction, M must make the report required by 31 U.S.C. 5331 and this section.

Example 2. E, an individual, purchases an automobile from Q, an automobile dealer, for \$11,500. E tenders to Q in payment United States currency in the amount of \$2,000 and

a cashier's check payable to E and Q in the amount of \$9,500. The cashier's check constitutes the proceeds of a loan from the bank issuing the check. The origin of the proceeds is evident from provisions inserted by the bank on the check that instruct the dealer to cause a lien to be placed on the vehicle as security for the loan. The sale of the automobile is a designated reporting transaction. However, under paragraph (c)(3) of this section, because E has furnished Q documentary information establishing that the cashier's check constitutes the proceeds of a loan from the bank issuing the check, the cashier's check is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section.

Example 3. F, an individual, purchases an item of jewelry from S, a retail jeweler, for \$12,000. F gives S traveler's checks totaling \$2,400 and pays the balance with a personal check payable to S in the amount of \$9,600. Because the sale is a designated reporting transaction, the traveler's checks are treated as currency for purposes of section 5331 and this section. However, because the personal check is not treated as currency for purposes of section 5331 and this section, S has not received more than \$10,000 in currency in the transaction and no report is required to be filed under section 5331 and this section.

Example 4. G, an individual, purchases a boat from T, a boat dealer, for \$16,500. G pays T with a cashier's check payable to T in the amount of \$16,500. The cashier's check is not treated as currency because the face amount of the check is more than \$10,000. Thus, no report is required to be made by T under section 5331 and this section.

Example 5. H, an individual, arranges with W, a travel agent, for the chartering of a passenger aircraft to transport a group of individuals to a sports event in another city. H also arranges with W for hotel accommodations for the group and for admission tickets to the sports event. In payment, H tenders to W money orders which H had previously purchased. The total amount of the money orders, none of which individually exceeds \$10,000 in face amount, exceeds \$10,000. Because the transaction is a designated reporting transaction, the money orders are treated as currency for purposes of section 5331 and this section. Therefore, because W has received more than \$10,000 in currency with respect to the transaction, W must make the report required by section 5331 and this section.

(7) *Consumer durable.* The term *consumer durable* means an item of tangible personal property of a type that is suitable under ordinary usage for personal consumption or use, that can reasonably be expected to be useful for at least 1 year under ordinary usage,

and that has a sales price of more than \$10,000. Thus, for example, a \$20,000 automobile is a consumer durable (whether or not it is sold for business use), but a \$20,000 dump truck or a \$20,000 factory machine is not.

(8) *Collectible*. The term *collectible* means an item described in paragraphs (A) through (D) of section 408 (m)(2) of title 26 of the United States Code (determined without regard to section 408 (m)(3) of title 26 of the United States Code).

(9) *Travel or entertainment activity*. The term *travel or entertainment activity* means an item of travel or entertainment (within the meaning of 26 CFR 1.274-2(b)(1)) pertaining to a single trip or event where the aggregate sales price of the item and all other items pertaining to the same trip or event that are sold in the same transaction (or related transactions) exceeds \$10,000.

(10) *Retail sale*. The term *retail sale* means any sale (whether for resale or for any other purpose) made in the course of a trade or business if that trade or business principally consists of making sales to ultimate consumers.

(11) *Trade or business*. The term *trade or business* has the same meaning as under section 162 of title 26, United States Code.

(12) *Transaction*. (i) Solely for purposes of 31 U.S.C. 5331 and this section, the term *transaction* means the underlying event precipitating the payer's transfer of currency to the recipient. In this context, transactions include (but are not limited to) a sale of goods or services; a sale of real property; a sale of intangible property; a rental of real or personal property; an exchange of currency for other currency; the establishment or maintenance of or contribution to a custodial, trust, or escrow arrangement; a payment of a pre-existing debt; a conversion of currency to a negotiable instrument; a reimbursement for expenses paid; or the making or repayment of a loan. A transaction may not be divided into multiple transactions in order to avoid reporting under this section.

(ii) The term *related transactions* means any transaction conducted between a payer (or its agent) and a recipient of currency in a 24-hour period.

Additionally, transactions conducted between a payer (or its agent) and a currency recipient during a period of more than 24 hours are related if the recipient knows or has reason to know that each transaction is one of a series of connected transactions.

(iii) The following examples illustrate the definition of paragraphs (c)(12)(i) and (ii) of this section:

Example 1. A person has a tacit agreement with a gold dealer to purchase \$36,000 in gold bullion. The \$36,000 purchase represents a single transaction under paragraph (c)(12)(i) of this section and the reporting requirements of this section cannot be avoided by recasting the single sales transaction into 4 separate \$9,000 sales transactions.

Example 2. An attorney agrees to represent a client in a criminal case with the attorney's fee to be determined on an hourly basis. In the first month in which the attorney represents the client, the bill for the attorney's services comes to \$8,000 which the client pays in currency. In the second month in which the attorney represents the client, the bill for the attorney's services comes to \$4,000, which the client again pays in currency. The aggregate amount of currency paid (\$12,000) relates to a single transaction as defined in paragraph (c)(12)(i) of this section, the sale of legal services relating to the criminal case, and the receipt of currency must be reported under this section.

Example 3. A person intends to contribute a total of \$45,000 to a trust fund, and the trustee of the fund knows or has reason to know of that intention. The \$45,000 contribution is a single transaction under paragraph (c)(12)(i) of this section and the reporting requirement of this section cannot be avoided by the grantor's making five separate \$9,000 contributions of currency to a single fund or by making five \$9,000 contributions of currency to five separate funds administered by a common trustee.

Example 4. K, an individual, attends a one day auction and purchases for currency two items, at a cost of \$9,240 and \$1,732.50 respectively (tax and buyer's premium included). Because the transactions are related transactions as defined in paragraph (c)(12)(ii) of this section, the auction house is required to report the aggregate amount of currency received from the related sales (\$10,972.50), even though the auction house accounts separately on its books for each item sold and presents the purchaser with separate bills for each item purchased.

Example 5. F, a coin dealer, sells for currency \$9,000 worth of gold coins to an individual on three successive days. Under paragraph (c)(12)(ii) of this section the three \$9,000 transactions are related transactions aggregating \$27,000 if F knows, or has reason

to know, that each transaction is one of a series of connected transactions.

(13) *Recipient.* (i) The term *recipient* means the person receiving the currency. Except as provided in paragraph (c)(13)(ii) of this section, each store, division, branch, department, headquarters, or office (“branch”) (regardless of physical location) comprising a portion of a person’s trade or business shall for purposes of this section be deemed a separate recipient.

(ii) A branch that receives currency payments will not be deemed a separate recipient if the branch (or a central unit linking such branch with other branches) would in the ordinary course of business have reason to know the identity of payers making currency payments to other branches of such person.

(iii) *Examples.* The following examples illustrate the application of the rules in paragraphs (c)(13)(i) and (ii) of this section:

Example 1. N, an individual, purchases regulated futures contracts at a cost of \$7,500 and \$5,000, respectively, through two different branches of Commodities Broker X on the same day. N pays for each purchase with currency. Each branch of Commodities Broker X transmits the sales information regarding each of N’s purchases to a central unit of Commodities Broker X (which settles the transactions against N’s account). Under paragraph (c)(13)(ii) of this section the separate branches of Commodities Broker X are not deemed to be separate recipients; therefore, Commodities Broker X must report with respect to the two related regulated futures contracts sales in accordance with this section.

Example 2. P, a corporation, owns and operates a racetrack. P’s racetrack contains 100 betting windows at which pari-mutuel wagers may be made. R, an individual, places currency wagers of \$3,000 each at five separate betting windows. Assuming that in the ordinary course of business each betting window (or a central unit linking windows) does not have reason to know the identity of persons making wagers at other betting windows, each betting window would be deemed to be a separate currency recipient under paragraph (c)(13)(i) of this section. As no individual recipient received currency in excess of \$10,000, no report need be made by P under this section.

(d) *Exceptions to the reporting requirements of 31 U.S.C. 5331—(1) Receipt is made with respect to a foreign currency transaction—(i) In general.* Generally,

there is no requirement to report with respect to a currency transaction if the entire transaction occurs outside the United States (the fifty states and the District of Columbia). An entire transaction consists of both the transaction as defined in paragraph (c)(12)(i) of this section and the receipt of currency by the recipient. If, however, any part of an entire transaction occurs in the Commonwealth of Puerto Rico or a possession or territory of the United States and the recipient of currency in that transaction is subject to the general jurisdiction of the Internal Revenue Service under title 26 of the United States Code, the recipient is required to report the transaction under this section.

(ii) *Example.* The following example illustrates the application of the rules in paragraph (d)(1)(i) of this section:

Example. W, an individual engaged in the trade or business of selling aircraft, reaches an agreement to sell an airplane to a U.S. citizen living in Mexico. The agreement, no portion of which is formulated in the United States, calls for a purchase price of \$125,000 and requires delivery of and payment for the airplane to be made in Mexico. Upon delivery of the airplane in Mexico, W receives \$125,000 in currency. W is not required to report under 31 U.S.C. 5331 or this section because the exception provided in paragraph (d)(1)(i) of this section (“foreign transaction exception”) applies. If, however, any part of the agreement to sell had been formulated in the United States, the foreign transaction exception would not apply and W would be required to report the receipt of currency under 31 U.S.C. 5331 and this section.

(2) *Receipt of currency not in the course of the recipient’s trade or business.* The receipt of currency in excess of \$10,000 by a person other than in the course of the person’s trade or business is not reportable under 31 U.S.C. 5331. Thus, for example, F, an individual in the trade or business of selling real estate, sells a motorboat for \$12,000, the purchase price of which is paid in currency. F did not use the motorboat in any trade or business in which F was engaged. F is not required to report under 31 U.S.C. 5331 or this section because the exception provided in this paragraph (d)(2) applies.

(e) *Time, manner, and form of reporting—(1) In general.* The reports required by paragraph (a) of this section must

be made by filing a Form 8300, as specified in 26 CFR 1.6050I-1(e)(2). The reports must be filed at the time and in the manner specified in 26 CFR 1.6050I-1(e)(1) and (3) respectively.

(2) *Verification.* A person making a report of information under this section must verify the identity of the person from whom the reportable currency is received. Verification of the identity of a person who purports to be an alien must be made by examination of such person's passport, alien identification card, or other official document evidencing nationality or residence. Verification of the identity of any other person may be made by examination of a document normally acceptable as a means of identification when cashing or accepting checks (for example, a driver's license or a credit card). In addition, a report will be considered incomplete if the person required to make a report knows (or has reason to know) that an agent is conducting the transaction for a principal, and the return does not identify both the principal and the agent.

(3) *Retention of reports.* A person required to make a report under this section must keep a copy of each report filed for five years from the date of filing.

§ 1010.340 Reports of transportation of currency or monetary instruments.

(a) Each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped, or attempts to physically transport, mail or ship, or attempts to cause to be physically transported, mailed or shipped, currency or other monetary instruments in an aggregate amount exceeding \$10,000 at one time from the United States to any place outside the United States, or into the United States from any place outside the United States, shall make a report thereof. A person is deemed to have caused such transportation, mailing or shipping when he aids, abets, counsels, commands, procures, or requests it to be done by a financial institution or any other person.

(b) Each person who receives in the U.S. currency or other monetary instruments in an aggregate amount exceeding \$10,000 at one time which have

been transported, mailed, or shipped to such person from any place outside the United States with respect to which a report has not been filed under paragraph (a) of this section, whether or not required to be filed thereunder, shall make a report thereof, stating the amount, the date of receipt, the form of monetary instruments, and the person from whom received.

(c) This section shall not require reports by:

(1) A Federal Reserve;

(2) A bank, a foreign bank, or a broker or dealer in securities, in respect to currency or other monetary instruments mailed or shipped through the postal service or by common carrier;

(3) A commercial bank or trust company organized under the laws of any State or of the United States with respect to overland shipments of currency or monetary instruments shipped to or received from an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned;

(4) A person who is not a citizen or resident of the United States in respect to currency or other monetary instruments mailed or shipped from abroad to a bank or broker or dealer in securities through the postal service or by common carrier;

(5) A common carrier of passengers in respect to currency or other monetary instruments in the possession of its passengers;

(6) A common carrier of goods in respect to shipments of currency or monetary instruments not declared to be such by the shipper;

(7) A travelers' check issuer or its agent in respect to the transportation of travelers' checks prior to their delivery to selling agents for eventual sale to the public;

(8) By a person with respect to a restrictively endorsed traveler's check that is in the collection and reconciliation process after the traveler's check has been negotiated;

(9) Nor by a person engaged as a business in the transportation of currency,

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monetary instruments and other commercial papers with respect to the transportation of currency or other monetary instruments overland between established offices of banks or brokers or dealers in securities and foreign persons.

(d) A transfer of funds through normal banking procedures which does not involve the physical transportation of currency or monetary instruments is not required to be reported by this section. This section does not require that more than one report be filed covering a particular transportation, mailing or shipping of currency or other monetary instruments with respect to which a complete and truthful report has been filed by a person. However, no person required by paragraph (a) or (b) of this section to file a report shall be excused from liability for failure to do so if, in fact, a complete and truthful report has not been filed.

§ 1010.350 Reports of foreign financial accounts.

(a) *In general.* Each United States person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country shall report such relationship to the Commissioner of Internal Revenue for each year in which such relationship exists and shall provide such information as shall be specified in a reporting form prescribed under 31 U.S.C. 5314 to be filed by such persons. The form prescribed under section 5314 is the Report of Foreign Bank and Financial Accounts (TD-F 90-22.1), or any successor form. See paragraphs (g)(1) and (g)(2) of this section for a special rule for persons with a financial interest in 25 or more accounts, or signature or other authority over 25 or more accounts.

(b) *United States person.* For purposes of this section, the term “United States person” means—

(1) A citizen of the United States;

(2) A resident of the United States. A resident of the United States is an individual who is a resident alien under 26 U.S.C. 7701(b) and the regulations thereunder but using the definition of “United States” provided in 31 CFR 1010.100(hhh) rather than the definition

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of “United States” in 26 CFR 301.7701(b)-1(c)(2)(ii); and

(3) An entity, including but not limited to, a corporation, partnership, trust, or limited liability company created, organized, or formed under the laws of the United States, any State, the District of Columbia, the Territories and Insular Possessions of the United States, or the Indian Tribes.

(c) *Types of reportable accounts.* For purposes of this section—

(1) *Bank account.* The term “bank account” means a savings deposit, demand deposit, checking, or any other account maintained with a person engaged in the business of banking.

(2) *Securities account.* The term “securities account” means an account with a person engaged in the business of buying, selling, holding or trading stock or other securities.

(3) *Other financial account.* The term “other financial account” means—

(i) An account with a person that is in the business of accepting deposits as a financial agency;

(ii) An account that is an insurance or annuity policy with a cash value;

(iii) An account with a person that acts as a broker or dealer for futures or options transactions in any commodity on or subject to the rules of a commodity exchange or association; or

(iv) An account with—

(A) *Mutual fund or similar pooled fund.* A mutual fund or similar pooled fund which issues shares available to the general public that have a regular net asset value determination and regular redemptions; or

(B) *Other investment fund.* [Reserved]

(4) *Exceptions for certain accounts.* (i) An account of a department or agency of the United States, an Indian Tribe, or any State or any political subdivision of a State, or a wholly-owned entity, agency or instrumentality of any of the foregoing is not required to be reported. In addition, reporting is not required with respect to an account of an entity established under the laws of the United States, of an Indian Tribe, of any State, or of any political subdivision of any State, or under an intergovernmental compact between two or more States or Indian Tribes, that exercises governmental authority

on behalf of the United States, an Indian Tribe, or any such State or political subdivision. For this purpose, an entity generally exercises governmental authority on behalf of the United States, an Indian Tribe, a State, or a political subdivision only if its authorities include one or more of the powers to tax, to exercise the power of eminent domain, or to exercise police powers with respect to matters within its jurisdiction.

(ii) An account of an international financial institution of which the United States government is a member is not required to be reported.

(iii) An account in an institution known as a “United States military banking facility” (or “United States military finance facility”) operated by a United States financial institution designated by the United States Government to serve United States government installations abroad is not required to be reported even though the United States military banking facility is located in a foreign country.

(iv) Correspondent or nostro accounts that are maintained by banks and used solely for bank-to-bank settlements are not required to be reported.

(d) *Foreign country.* A foreign country includes all geographical areas located outside of the United States as defined in 31 CFR 1010.100(hhh).

(e) *Financial interest.* A financial interest in a bank, securities or other financial account in a foreign country means an interest described in this paragraph (e):

(1) *Owner of record or holder of legal title.* A United States person has a financial interest in each bank, securities or other financial account in a foreign country for which he is the owner of record or has legal title whether the account is maintained for his own benefit or for the benefit of others. If an account is maintained in the name of more than one person, each United States person in whose name the account is maintained has a financial interest in that account.

(2) *Other financial interest.* A United States person has a financial interest in each bank, securities or other financial account in a foreign country for which the owner of record or holder of legal title is—

(i) A person acting as an agent, nominee, attorney or in some other capacity on behalf of the United States person with respect to the account;

(ii) A corporation in which the United States person owns directly or indirectly more than 50 percent of the voting power or the total value of the shares, a partnership in which the United States person owns directly or indirectly more than 50 percent of the interest in profits or capital, or any other entity (other than an entity in paragraphs (e)(2)(iii) through (iv) of this section) in which the United States person owns directly or indirectly more than 50 percent of the voting power, total value of the equity interest or assets, or interest in profits;

(iii) A trust, if the United States person is the trust grantor and has an ownership interest in the trust for United States Federal tax purposes. See 26 U.S.C. 671-679 and the regulations thereunder to determine if a grantor has an ownership interest in the trust for the year; or

(iv) A trust in which the United States person either has a present beneficial interest in more than 50 percent of the assets or from which such person receives more than 50 percent of the current income.

(3) *Anti-avoidance rule.* A United States person that causes an entity, including but not limited to a corporation, partnership, or trust, to be created for a purpose of evading this section shall have a financial interest in any bank, securities, or other financial account in a foreign country for which the entity is the owner of record or holder of legal title.

(f) *Signature or other authority*—(1) *In general.* Signature or other authority means the authority of an individual (alone or in conjunction with another) to control the disposition of money, funds or other assets held in a financial account by direct communication (whether in writing or otherwise) to the person with whom the financial account is maintained.

(2) *Exceptions*—(i) An officer or employee of a bank that is examined by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation,

the Office of Thrift Supervision, or the National Credit Union Administration need not report that he has signature or other authority over a foreign financial account owned or maintained by the bank if the officer or employee has no financial interest in the account.

(ii) An officer or employee of a financial institution that is registered with and examined by the Securities and Exchange Commission or Commodity Futures Trading Commission need not report that he has signature or other authority over a foreign financial account owned or maintained by such financial institution if the officer or employee has no financial interest in the account.

(iii) An officer or employee of an Authorized Service Provider need not report that he has signature or other authority over a foreign financial account owned or maintained by an investment company that is registered with the Securities and Exchange Commission if the officer or employee has no financial interest in the account. "Authorized Service Provider" means an entity that is registered with and examined by the Securities and Exchange Commission and that provides services to an investment company registered under the Investment Company Act of 1940.

(iv) An officer or employee of an entity with a class of equity securities listed (or American depository receipts listed) on any United States national securities exchange need not report that he has signature or other authority over a foreign financial account of such entity if the officer or employee has no financial interest in the account. An officer or employee of a United States subsidiary of a United States entity with a class of equity securities listed on a United States national securities exchange need not file a report concerning signature or other authority over a foreign financial account of the subsidiary if he has no financial interest in the account and the United States subsidiary is included in a consolidated report of the parent filed under this section.

(v) An officer or employee of an entity that has a class of equity securities registered (or American depository receipts in respect of equity securities

registered) under section 12(g) of the Securities Exchange Act need not report that he has signature or other authority over the foreign financial accounts of such entity or if he has no financial interest in the accounts.

(g) *Special rules*—(1) *Financial interest in 25 or more foreign financial accounts.* A United States person having a financial interest in 25 or more foreign financial accounts need only provide the number of financial accounts and certain other basic information on the report, but will be required to provide detailed information concerning each account when so requested by the Secretary or his delegate.

(2) *Signature or other authority over 25 or more foreign financial accounts.* A United States person having signature or other authority over 25 or more foreign financial accounts need only provide the number of financial accounts and certain other basic information on the report, but will be required to provide detailed information concerning each account when so requested by the Secretary or his delegate.

(3) *Consolidated reports.* An entity that is a United States person and which owns directly or indirectly more than a 50 percent interest in one or more other entities required to report under this section will be permitted to file a consolidated report on behalf of itself and such other entities.

(4) *Participants and beneficiaries in certain retirement plans.* Participants and beneficiaries in retirement plans under sections 401(a), 403(a) or 403(b) of the Internal Revenue Code as well as owners and beneficiaries of individual retirement accounts under section 408 of the Internal Revenue Code or Roth IRAs under section 408A of the Internal Revenue Code are not required to file an FBAR with respect to a foreign financial account held by or on behalf of the retirement plan or IRA.

(5) *Certain trust beneficiaries.* A beneficiary of a trust described in paragraph (e)(2)(iv) of this section is not required to report the trust's foreign financial accounts if the trust, trustee of the trust, or agent of the trust is a United States person that files a report

under this section disclosing the trust's foreign financial accounts.

[76 FR 10245, Feb. 24, 2011, as amended at 76 FR 37000, June 24, 2011]

§ 1010.360 Reports of transactions with foreign financial agencies.

(a) *Promulgation of reporting requirements.* The Secretary, when he deems appropriate, may promulgate regulations requiring specified financial institutions to file reports of certain transactions with designated foreign financial agencies. If any such regulation is issued as a final rule without notice and opportunity for public comment, then a finding of good cause for dispensing with notice and comment in accordance with 5 U.S.C. 553(b) will be included in the regulation. If any such regulation is not published in the FEDERAL REGISTER, then any financial institution subject to the regulation will be named and personally served or otherwise given actual notice in accordance with 5 U.S.C. 553(b). If a financial institution is given notice of a reporting requirement under this section by means other than publication in the FEDERAL REGISTER, the Secretary may prohibit disclosure of the existence or provisions of that reporting requirement to the designated foreign financial agency or agencies and to any other party.

(b) *Information subject to reporting requirements.* A regulation promulgated pursuant to paragraph (a) of this section shall designate one or more of the following categories of information to be reported:

(1) Checks or drafts, including traveler's checks, received by respondent financial institution for collection or credit to the account of a foreign financial agency, sent by respondent financial institution to a foreign country for collection or payment, drawn by respondent financial institution on a foreign financial agency, drawn by a foreign financial agency on respondent financial institution—including the following information:

- (i) Name of maker or drawer;
- (ii) Name of drawee or drawee financial institution;
- (iii) Name of payee;
- (iv) Date and amount of instrument;
- (v) Names of all endorsers.

(2) Transmittal orders received by a respondent financial institution from a foreign financial agency or sent by respondent financial institution to a foreign financial agency, including all information maintained by that institution pursuant to §§ 1010.410 and 1020.410.

(3) Loans made by respondent financial institution to or through a foreign financial agency—including the following information:

- (i) Name of borrower;
- (ii) Name of person acting for borrower;
- (iii) Date and amount of loan;
- (iv) Terms of repayment;
- (v) Name of guarantor;
- (vi) Rate of interest;
- (vii) Method of disbursing proceeds;
- (viii) Collateral for loan.

(4) Commercial paper received or shipped by the respondent financial institution—including the following information:

- (i) Name of maker;
- (ii) Date and amount of paper;
- (iii) Due date;
- (iv) Certificate number;
- (v) Amount of transaction.

(5) Stocks received or shipped by respondent financial institution—including the following information:

- (i) Name of corporation;
- (ii) Type of stock;
- (iii) Certificate number;
- (iv) Number of shares;
- (v) Date of certificate;
- (vi) Name of registered holder;
- (vii) Amount of transaction.

(6) Bonds received or shipped by respondent financial institution—including the following information:

- (i) Name of issuer;
- (ii) Bond number;
- (iii) Type of bond series;
- (iv) Date issued;
- (v) Due date;
- (vi) Rate of interest;
- (vii) Amount of transaction;
- (viii) Name of registered holder.

(7) Certificates of deposit received or shipped by respondent financial institution—including the following information:

- (i) Name and address of issuer;
- (ii) Date issued;
- (iii) Dollar amount;
- (iv) Name of registered holder;
- (v) Due date;

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- (vi) Rate of interest;
- (vii) Certificate number;
- (viii) Name and address of issuing agent.

(c) *Scope of reports.* In issuing regulations as provided in paragraph (a) of this section, the Secretary will prescribe:

(1) A reasonable classification of financial institutions subject to or exempt from a reporting requirement;

(2) A foreign country to which a reporting requirement applies if the Secretary decides that applying the requirement to all foreign countries is unnecessary or undesirable;

(3) The magnitude of transactions subject to a reporting requirement; and

(4) The kind of transaction subject to or exempt from a reporting requirement.

(d) *Form of reports.* Regulations issued pursuant to paragraph (a) of this section may prescribe the manner in which the information is to be reported. However, the Secretary may authorize a designated financial institution to report in a different manner if the institution demonstrates to the Secretary that the form of the required report is unnecessarily burdensome on the institution as prescribed; that a report in a different form will provide all the information the Secretary deems necessary; and that submission of the information in a different manner will not unduly hinder the effective administration of this chapter.

(e) *Limitations.* (1) In issuing regulations under paragraph (a) of this section, the Secretary shall consider the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency.

(2) The Secretary shall not issue a regulation under paragraph (a) of this section for the purpose of obtaining individually identifiable account information concerning a customer, as defined by the Right to Financial Privacy Act (12 U.S.C. 3401 *et seq.*), where that customer is already the subject of an ongoing investigation for possible violation of the Currency and Foreign Transactions Reporting Act, or is known by the Secretary to be the sub-

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ject of an investigation for possible violation of any other Federal law.

(3) The Secretary may issue a regulation pursuant to paragraph (a) of this section requiring a financial institution to report transactions completed prior to the date it received notice of the reporting requirement. However, with respect to completed transactions, a financial institution may be required to provide information only from records required to be maintained pursuant to the requirements of this chapter, or any other provision of state or Federal law, or otherwise maintained in the regular course of business.

§ 1010.370 Reports of certain domestic coin and currency transactions.

(a) If the Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional record-keeping and/or reporting requirements are necessary to carry out the purposes of this chapter and to prevent persons from evading the reporting/record-keeping requirements of this chapter, the Secretary may issue an order requiring any domestic financial institution or group of domestic financial institutions in a geographic area and any other person participating in the type of transaction to file a report in the manner and to the extent specified in such order. The order shall contain such information as the Secretary may describe concerning any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.

(b) An order issued under paragraph (a) of this section shall be directed to the Chief Executive Officer of the financial institution and shall designate one or more of the following categories of information to be reported: Each deposit, withdrawal, exchange of currency or other payment or transfer, by,

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through or to such financial institution specified in the order, which involves all or any class of transactions in currency and/or monetary instruments equal to or exceeding an amount to be specified in the order.

(c) In issuing an order under paragraph (a) of this section, the Secretary will prescribe:

(1) The dollar amount of transactions subject to the reporting requirement in the order;

(2) The type of transaction or transactions subject to or exempt from a reporting requirement in the order;

(3) The appropriate form for reporting the transactions required in the order;

(4) The address to which reports required in the order are to be sent or from which they will be picked up;

(5) The starting and ending dates by which such transactions specified in the order are to be reported;

(6) The name of a Treasury official to be contacted for any additional information or questions;

(7) The amount of time the reports and records of reports generated in response to the order will have to be retained by the financial institution; and

(8) Any other information deemed necessary to carry out the purposes of the order.

(d)(1) No order issued pursuant to paragraph (a) of this section shall prescribe a reporting period of more than 60 days unless renewed pursuant to the requirements of paragraph (a).

(2) Any revisions to an order issued under this section will not be effective until made in writing by the Secretary.

(3) Unless otherwise specified in the order, a bank receiving an order under this section may continue to use the exemptions granted under § 1020.315 of this chapter prior to the receipt of the order, but may not grant additional exemptions.

(4) For purposes of this section, the term *geographic area* means any area in one or more States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, the territories and possessions of the

United States, and/or political subdivision or subdivisions thereof, as specified in an order issued pursuant to paragraph (a) of this section.

Subpart D—Records Required To Be Maintained

§ 1010.400 General.

Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to its chapter X part for any additional recordkeeping requirements. Unless otherwise indicated, the recordkeeping requirements contained in this subpart D apply to all financial institutions.

§ 1010.401 Determination by the Secretary.

The Secretary hereby determines that the records required to be kept by this chapter have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 1010.405 [Reserved]

§ 1010.410 Records to be made and retained by financial institutions.

Each financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) A record of each extension of credit in an amount in excess of \$10,000, except an extension of credit secured by an interest in real property, which record shall contain the name and address of the person to whom the extension of credit is made, the amount thereof, the nature or purpose thereof, and the date thereof;

(b) A record of each advice, request, or instruction received or given regarding any transaction resulting (or intended to result and later canceled if such a record is normally made) in the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit, of more than \$10,000 to or from any person, account, or place outside the United States.

(c) A record of each advice, request, or instruction given to another financial institution or other person located within or without the United States,